



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/235,084	01/21/1999	ALAN WALBECK	INTELOG.003A	5205

20995 7590 06/04/2004

KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

EXAMINER

DINH, KHANH Q

ART UNIT	PAPER NUMBER
----------	--------------

2151

DATE MAILED: 06/04/2004

19

Please find below and/or attached an Office communication concerning this application or proceeding.

28

Office Action Summary

Application No.

09/235,084

Applicant(s)

WALBECK ET AL.

Examiner

Khanh Dinh

Art Unit

2151

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 February 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8, 10-16 and 19-33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8, 10-16 and 19-33 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

Art Unit: 2151

DETAILED ACTION

1. This is in response to the Amendment filed on 2/26/2004 (paper # 18). Claim 9 is cancelled. Claims 1-8, 10-16 and 19-33 are presented for examination.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

3. Claims 19-25, 27, 28 and 31 are rejected under 35 U.S.C. 102(e) as being anticipated by Norin et al., US pat. No.5,787,247.

As to claim 19, Norin discloses a method for using a desired protocol to communicate between nodes on a network, comprising: creating a node database containing information about said nodes (see abstract, figs. 1, 2, col.1.8 line 30 to col.1.9 line 65 and col.12 line 5 to col.13 line 56), designating an active gateway node to maintain said

Art Unit: 2151

node database, said active gateway node providing one or more access methods to access said node database (i.e., using monitoring functions, col.15 line 11 to co1.16 line 57) and mirroring said node database in one or more standby server nodes (i.e., replicate resource, see col.13 line 18 to col.15 line 60) and transitioning to said active mode when an unacknowledged client request is detected [using list maintenance block 36 of fig.2 to ensure the replica list updated (active or deleted state) when a new information is received via replication block, see col.13 line 18 to col.14 line 60].

As to claims 20 and 21, Norin discloses internal node database further comprising rules that specify actions to be taken upon a state change of a client node and interpreted by a rule engine (see co1.17 line 7 to co1.19 line 65 and co1.20 line 21 to co1.23 line 63).

As to claims 22 and 23, Norin discloses generating event notifications when said state change occurs provided to a dispatcher (see fig.2, col.13 line 18 to col.14 line 60, col.17 line 7 to col.19 line 65 and co1.20 line 21 to col.23 line 63).

As to claims 24 and 25, Norin discloses translating rules into a rule definition language and a change in an instance variable of the client node (see co1.17 line 7 to col.19 line 65 and co1.24 line 1 to co1.26 line 27).

Art Unit: 2151

As to claim 27, Norin discloses activating one of said standby server nodes after said active server becomes inactive (see col.13 line 18 to col.14 line 60, co1.17 line 7 to co1.19 line 65 and co1.20 line 21 to col.23 line 63).

As to claim 28, Norin discloses encapsulating raw packets in a first protocol into wrapper packets in said desired protocol and tunneling said raw packets through said desired protocol (see col.13 line 18 to col.14 line 60, col.17 line 7 to co1.19 line 65 and co1.20 line 21 to co1.23 line 63).

As to claim 31, Norin discloses an event handler configured to notify a user application when a change occurs in an instance variable of said client node (state changes of nodes, see col.13 line 18 to col.14 line 60, co1.17 line 7 to col.19 line 65 and co1.20 line 21 to co1.23 line 63).

Claim Rejections - 35 USC, 103

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 103(a) that form the basis for the rejections under this section made in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-7, 10, 13, 14 and 16 are rejected under 35 U.S.C. 103(a) as

Art Unit: 2151

Being unpatentable over Norin et al US pat. No.5,787,247 in view of Chau et al., US pat. No.5,550,906.

As to claim 1, Norin discloses a computer network gateway comprising: an internal node (34 fig.2) database comprising information about nodes on a network (see abstract, figs.1, 2, col.1.8 line 30 to col.9 line 65 and col.12 line 5 to col.13 line 56), an application programming interface to communicate with said nodes and a software module (i.e., using monitoring functions to monitor state change of nodes, col.1.15 line 11 to col.16 line 57) configured to provide an active mode and a standby mode, said active mode configured to maintain a said internal node database and to provide access to said node database, said standby mode configured to maintain said internal node database as a mirror copy (i.e., replicated resource) of an external node database (also see col.13 line 18 to col.15 line 60) and transitioning to said active mode when an unacknowledged client request is detected [using list maintenance block 36 of fig.2 to ensure the replica list updated (active or deleted state) when a new information is received via replication block, see col.13 line 18 to col.14 line 60].

Norin does not specifically disclose using a converter configured to communicate using one or more data protocols and then transmitting one or more data protocols over the network. However, the use of a protocol converter (40 fig.1) configured to communicate using one or more data protocols and then transmitting one or more data protocols over the network is generally well known in the art as disclosed by Chau (see fig.1, col.4 line 42 to col.5 line 57 and col.11 lines 7-61). It would have been obvious to one of the ordinary skill in the art at the time the invention was made to implement Chau's protocol

Art Unit: 2151

converter to process data communications because it would have provided backward-compatible arrangement for all communications protocol types of the multimedia environment (see col.1 line 42 to col.2 line 61).

As to claim 2, Norin discloses internal node database further comprising rules that specify actions to be taken upon a state change of a client node (see co1.17 line 7 to co1.19 line 65 and co1.20 line 21 to co1.23 line 63).

As to claims 3 and 4, Norin discloses rules are simple and complex rules (see col.17 line 7 to co1.19 line 65 and co1.20 line 21 to co1.23 line 63).

As to claims 5-7, Norin discloses a rules engine configured to interpret rules, shims configured to translate rules into a rule definition language and a change in an instance variable of the client node (see co1.17 line 7 to col.19 line 65 and co1.24 line 1 to co1.26 line 27).

As to claim10, Norin discloses configured to tunnel a first protocol through a second protocol (see col.13 line 18 to co1.14 line 60, col.17 line 7 to co1.19 line 65 and co1.20 line 21 to co1.23 line 63).

As to claim 13 and 14, Norin discloses an event handler configured to notify a user application when a change occurs in an instance variable of said client node (ensuring

Art Unit: 2151

replica list is properly updated as new information is received, see col.13 line 18 to col.14 line 60, col.17 line 7 to col.19 line 65 and col.20 line 21 to col.23 line 63).

As to claim 16, Norin discloses user interface is configured to allow a user to control nodes on a power line network (see col.13 line 18 to col.14 line 60, col.17 line 7 to col.19 line 65 and col.20 line 21 to col.23 line 63).

6. Claims 8, 11, 12, 15, 26, 29, 30, 32 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Norin et al., US pat. No.5,787,247 in view of Chau et al., US pat. No.5,550,906.

As to claims 8, 11, 12, 15 and 33, Norin and Chau's teachings still applied as above. Neither Norin nor Chau specifically discloses the use of ping requests, power line protocol, PLX protocol and an Internet browser. However, an Official Notice is taken that the use of such protocol and interface is generally well known in the art. It would have been obvious to one of the ordinary skill in the art at the time the invention was made to implement well-known teachings into the system of Norin to process and control data processing systems because it would have controlled data processing systems more quickly (for example, Golden of the US pat. No.6,272,127 discloses the use of ping requests, power line protocol, PLX protocol and an Internet browser, see col.20 lines 37-57, col.29 lines 46-67 and col.54 lines 26-60).

Claim 26 is rejected for the same reasons set forth in claim 8. As to the added limitation, Norin further discloses listening for responses to said requests, said

Art Unit: 2151

responses used to update said node database (see col.13 line 18 to col.14 line 60, col.17 line 7 to col.19 line 65 and col.20 line 21 to col.23 line 63).

Claims 29, 30 and 32 are rejected for the same reasons set forth in claims 11, 12, 15 respectively.

Response to Arguments

7. Applicant's arguments filed on 2/26/2004 (paper # 18) have been fully considered but they are not persuasive.

* Applicant asserts that the cited reference does not disclose transitioning to an active mode when an unacknowledged client request is detected.

Examiner respectfully disagrees. Norin discloses a method for replication of data using an administration network environment to define various states (including active states) that represents the level of participation of nodes in the network. For example, Norin discloses transitioning to an active mode when an unacknowledged client request is detected [using list maintenance block 36 of fig.2 to ensure the replica list updated (active or deleted state) when a new information is received via replication block, see col.13 line 18 to col.14 line 60]. Users can use this method for detecting and resolving conflicts between copies of properties of data in a communications network.

Therefore, the examiner asserts that cited prior art teaches or suggests the subject matter broadly recited in independent claims 1 and 19. Claims 2-8, 10-16 and

Art Unit: 2151

20-33 are also rejected at least by virtue of their dependency on independent claims and by other reasons set forth in the previous office action [see paper no. 17].

Accordingly, claims 1, 3-7 are respectfully rejected.

Conclusion

8. Claims 1-8, 10-16 and 19-33 are *rejected*.

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khanh Dinh whose telephone number is (703) 308-8528. The examiner can normally be reached on Monday through Friday from 8:00 A.m. to 4:00 P.m.

Art Unit: 2151

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenton Burgess, can be reached on (703) 305-4792. The fax phone number for the organization where this application or proceeding is (703) 872-9306 for regular communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305 -9600.



FRANTZ B. JEAN
PRIMARY EXAMINER

Khanh Dinh
Patent Examiner
Art Unit 2151
5/17/2004